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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 )  
Amendment of Section 73.622(b), ) MM Docket No. 01-43  
Table of Allotments, ) RM-10041  
Digital Television Broadcast Stations. )  
(Jackson, Mississippi) )

To: The Chief, Video Services Division  
Mass Media Bureau

COMMENTS IN OPPOSITION TO RULE MAKING

GENE A. BLAILOCK ("Blailock"), by his attorney, hereby respectfully submits his comments to the Federal Communications Commission in opposition to the Notice of Proposed Rule Making (the "NPRM") in the captioned proceeding, DA 01-388, adopted February 16, 2001 and released February 20, 2001. As his comments in opposition, Blailock respectfully states:

Blailock is the licensee of Station WBMS-LP operating on Channel 10 in Jackson, MS. On January 28, 2000, Blailock filed a Statement of Eligibility for Class A Low Power Television Station Status with the Commission on behalf of WBMS-LP, and the statement was accepted on the Commission's Public Notice, DA 00-1224, dated June 2, 2000, acknowledging that WBMS-LP is eligible to file an application for Class A station status in accordance with the Commission's procedures. Additionally, WBMS-LP has pending before the Commission an application in File No. BPTVL-20010116AFC to increase power; and it is currently operating under Special Temporary Authority at the power levels which it seeks in File No. BPTVL-20010116AFC to authorize on a permanent basis.

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The captioned proceeding proposes to substitute DTV Channel 9 in Jackson, MS, operating at 3.2 kW and 610 meters antenna HAAT, in lieu of WLBT-TV's existing allotment of DTV Channel 51. However, attachments to WLBT-TV's petition for rulemaking purport to amend its DTV application to specify a transmission power of 20 kW ERP. Thus, WLBT-TV evidently contemplates operating on DTV Channel 9 with 20 kW ERP, and not the 3.2 kW recited in the NPRM. As justification for the substitution, the NPRM cites WLBT-TV's assertion that "the proposed channel change would permit it to reduce the impact of DTV build-out and operating costs by operating more efficiently," and that it "could potentially permit the sharing of certain analog and digital equipment". (NPRM at ¶2).

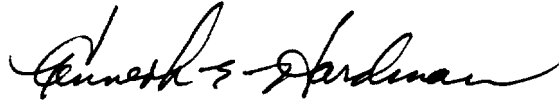
Blailock opposes the substitution of DTV Channel 9 because of the adverse impact such substitution would have on the existing service provided by WMBS-LP. This adverse impact is demonstrated by the Engineering Statement of B. W. St. Clair, Engineering Consultant, attached herinafter and incorporated herein by reference. In this regard, it is clear that the proposed change does not result from "technical problems . . . requiring an engineering solution" within the meaning of the Community Broadcasters Protection Act of 1999, 47 U.S.C. §336(f)(1)(D).<sup>1</sup> Thus, Blailock respectfully submits that the adverse impact on WMBS-LP arising from the proposed substitution is entitled to full consideration by the Commission. Accordingly, given the

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<sup>1</sup> Blailock also does not believe that WLBT-TV filed a "bona fide application for maximization by May 1, 2000" within the meaning of 47 U.S.C. §336(f)(1)(D), at least insofar as DTV Channel 9 is concerned. This is so, in Blailock's view, because simultaneously with filing its application on May 1, 2000, WLBT-TV sought a waiver of the Commission's normal processing rules in Section 73.3572, requested that processing of the application be deferred until the rule making is concluded, and sought waivers of the Commission's rules governing contingent applications and inconsistent applications. However, given the absence of a technical compulsion for the proposed substitution, Blailock does not believe it is necessary to resolve that issue.

absence of a technical compulsion, Blailock respectfully submits that it better serves the public interest to decline to make the proposed amendment to the DTV Table of Allotments.

Respectfully submitted,



Kenneth E. Hardman

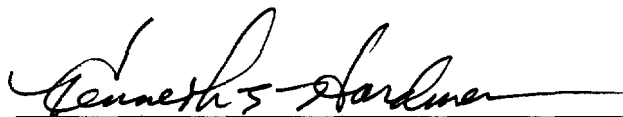
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April 13, 2001

Certificate of Service

I hereby certify that I have this 13<sup>th</sup> day of April, 2001, served the foregoing Comments in Opposition to Rule Making and annexed Engineering Statement upon counsel to petitioner by mailing a true copy thereof, first class postage prepaid, to Scott S. Patrick, Esquire, John S. Logan, Esquire, Dow Lohnes & Albertson, PLLC, 1200 New Hampshire Avenue, N.W., Suite 800, Washington, DC 20036-6802.



Kenneth E. Hardman

**ENGINEERING STATEMENT IN SUPPORT OF  
THE COMMENTS OF GENE A. BLALOCK  
IN MM DOCKET NO. 01-43, RM-10041**

**BACKGROUND**

Gene A. Blalock is the licensee of LPTV station WBMS-LP, the holder of a "Special Temporary Authorization" for increased power and has a pending minor change application to match the "STA". WBMS-LP operates on channel 10 from the roof of an office building near the center of Jackson, MS. WBMS-LP is a prospective Class A station.

Civic License Holding Company (Civic) proposes to substitute channel 09 for its original WLBT-DT assignment on channel 51. With its petition for the DTV channel substitution Civic has filed an application proposing an ERP of 3.2 kW and an antenna with a directional pattern presumably to protect WTVA-TV, Tupelo, MS. The antenna pattern is 10.5 dB down from its maximum in the direction of WBMS-LP's coverage area and the community of Jackson.

In addition Civic has filed an amendment to its channel 09 DTV application proposing to increase its ERP to 20 kW and to change to a non-directional antenna.

The locations of WBMS-LP (downtown) and WLRT-DT (approximately 20 km southwest of Jackson) are shown in Fig. 1.

## DISCUSSION

WBMS-LP, as a prospective Class A station, is entitled to protection within its "Protected Contour" of 68 dBu (F50/50). Civic has submitted a supplement dated January 2, 2001 to its petition stating there will be no interference to any prospective Class A station. Specifically the Incorporated "Engineering Statement" says:

"...no interference is predicted, either employing the standard FCC Curves or OET Bulletin 69 to any low power station."

I find to the contrary that interference is caused to WBMS-LP using standard FCC curves. The protected contour is 68 dBu and the interference contour of WLBT-DT is 80 dBu.<sup>1</sup> The overlap of these contours is illustrated in FIG. 1.

Civic has given no compelling reason for changing its DTV assignment from channel 51 to 09. Thus it is appropriate to examine the full impact of the proposed change on WBMS-LP. While the official protected contour is 68 dBu, the signal is available for reception at a considerably lower field strength value. OET Bulletin 69 suggests that signal strength which defines the service area for a channel 10 station is 56 dBu<sup>2</sup>

Using the methodology of OET bulletin 69 the noise limited 56 dBu contour was determined, followed by a calculation of the loss of population in the contour area from the proposed operation of WLBT-DT on channel 09 at both power levels. The loss of population is presented in Table I

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<sup>1</sup>Office of Engineering & Technology Bulletin 69, Table 5A. Interference ratio from a lower DTV station to an analog station is 12 dB.

<sup>2</sup>Ibid, Table 1.

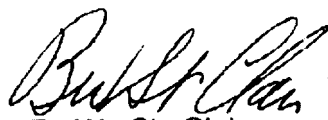
Table I  
Population Lost by WBMS-LP

	WLBT-DT Ch 10 3.2 kW & Directional Ant.	WLBT-DT Ch 10 20 kW & Non-dir Antenna
WBMS-LP 0.1 kW as licensed	population loss 2378 1.04%	population loss 57248 25.1%
WBMS-LP 3. kW pending application	population loss 4770 1.40%	population loss 42797 12.5%

### CONCLUSION

Even with the limited 3.2 kW ERP and a directional antenna with reduced radiation towards WBMS-LP's service area, the operation of WLBT-DT on channel 09 will adversely impact WBMS-LP. If WLBT-DT is not only allowed to use channel 09 but also to increase its ERP towards the community of Jackson the impact on WBMS-LP will become severe. This impact would arise, not from necessity, but only from satisfying a preference of Civic.

Respectfully submitted,



B. W. St. Clair

Engineering Consultant

April 13, 2001

